

CFTC Order

UNITED STATES OF AMERICA
Before the
COMMODITY FUTURES TRADING COMMISSION

In the Matter of:

JPMorgan Chase Bank, N.A.

Respondent.

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) CFTC Docket No. 15 – 04
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**ORDER INSTITUTING PROCEEDINGS PURSUANT TO
SECTIONS 6(c)(4)(A) AND 6(d) OF THE COMMODITY EXCHANGE ACT,
MAKING FINDINGS, AND IMPOSING REMEDIAL SANCTIONS**

I.

The Commodity Futures Trading Commission (“Commission” or “CFTC”) has reason to believe that JPMorgan Chase Bank, N.A. (“Respondent” or “JPMC”) has violated the Commodity Exchange Act (the “Act”) and Commission Regulations (“Regulations”). Therefore, the Commission deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted to determine whether Respondent engaged in the violations set forth herein, and to determine whether any order shall be issued imposing remedial sanctions.

II.

In anticipation of the institution of an administrative proceeding, Respondent has submitted an Offer of Settlement (“Offer”), which the Commission has determined to accept. Without admitting or denying the findings or conclusions herein, Respondent herein consents to the entry and acknowledges service of this Order Instituting Proceedings Pursuant to Sections 6(c)(4)(A) and 6(d) of the Commodity Exchange Act, Making Findings and Imposing Remedial Sanctions (“Order”).¹

¹ Respondent consents to the entry of this Order and to the use of these findings in this proceeding and in any other proceeding brought by the Commission or to which the Commission is a party; provided, however, that Respondent does not consent to the use of the Offer, or the findings or conclusions in this Order, as the sole basis for any other proceeding brought by the Commission, other than in a proceeding in bankruptcy or to enforce the terms of this Order. Nor does Respondent consent to the use of the Offer or this Order, or the findings or conclusions in this Order consented to in the Offer, by any other party in any other proceeding. Neither the Offer nor the Order confers any rights to any party other than the Commission and JPMC.

III.

The Commission finds the following:

A. Summary

From 2010 through 2012 (“Relevant Period”), JPMC, by and through certain of its foreign exchange (“FX”) traders, at times, sought to benefit its own trading positions or those of certain FX traders at other banks by attempting to manipulate and aiding and abetting certain traders at other banks in their attempts to manipulate certain FX benchmark rates.

One of the primary FX benchmark rates that the FX traders attempted to manipulate was the World Markets/Reuters Closing Spot Rates (“WM/R Rates”). The WM/R Rates are the most widely referenced FX benchmark rates in the United States and globally. The WM/R Rates are used to establish the relative values of different currencies, and reflect the rates at which one currency is exchanged for another currency. Most of the WM/R Rates at issue here are set or fixed based on trading activity of market participants, including JPMC and other banks, at various times throughout the day. The most widely used WM/R Rate is set or fixed at 4 p.m. London time (“4 p.m. WM/R fix”).

FX benchmark rates, including the WM/R Rates, are used to price a variety of transactions including foreign exchange swaps, cross currency swaps, spot transactions, forwards, options, futures, and other financial derivative instruments. The most actively traded currency pairs are the Euro/U.S. Dollar (EUR/USD), U.S. Dollar/Japanese Yen (USD/JPY), and British Pound Sterling/U.S. Dollar (GBP/USD). Accordingly, the integrity of the WM/R Rates and other FX benchmark rates is critical to the integrity of the markets in the United States and around the world.

At times during the Relevant Period, certain FX traders at JPMC and other banks coordinated their trading to attempt to manipulate certain FX benchmark rates, including the 4 p.m. WM/R fix, to their benefit. These FX traders at JPMC and the other banks used private electronic chat rooms to communicate and plan their attempts to manipulate the FX benchmark rates for certain currency pairs.² Certain FX traders at JPMC regularly participated in numerous private chat rooms. At times, in certain chat rooms, FX traders at JPMC and other banks disclosed confidential customer order information and trading positions, altered trading positions to accommodate the interests of the collective group, and agreed on trading strategies as part of an effort by the group to attempt to manipulate certain FX benchmark rates, in some cases downward and in some cases upward.

JPMC traders’ attempts to manipulate certain FX benchmark rates involved multiple currencies, including the United States Dollar (“U.S. Dollar”) and the Euro. The misconduct occurred primarily, but not exclusively, at JPMC’s FX trading desk in London, United Kingdom.

² Some FX traders involved in certain chat rooms at issue herein were responsible for managing their respective banks’ FX desks.

This conduct occurred at various times over the course of the Relevant Period without detection by JPMC in part because of internal controls and supervisory failures at JPMC. JPMC failed to adequately assess the risks associated with its participation in the fixing of certain FX benchmark rates, including the 4 p.m. WM/R benchmark rates. JPMC also lacked adequate internal controls or procedures to detect and deter possible misconduct involving certain FX benchmark rates and failed to adequately supervise its FX traders by, among other shortcomings, failing to have adequate controls and monitoring over the use of electronic chat rooms.

The Commission notes that some of this conduct occurred during the same period that JPMC was on notice that the CFTC and other regulators were investigating attempts by certain banks to manipulate the London Interbank Offered Rate ("LIBOR") and other interest rate benchmarks.

In accepting JPMC's Offer, the Commission recognizes the Respondent's significant cooperation during the CFTC's Division of Enforcement's ("Division") investigation of this matter, which included providing important information and analysis to the Division that helped the Division efficiently and effectively undertake its investigation. In addition, the Commission acknowledges that JPMC initiated its own internal investigation into FX trading prior to the Division's investigation. The Commission also recognizes that JPMC has commenced significant remedial action to strengthen the internal controls and policies relating to foreign exchange benchmarks and internal and external communications by traders.

B. Respondent

JPMorgan Chase Bank, N.A. is a global bank with headquarters in New York, New York.

C. Facts

1. The FX Market

The FX market, in which traders are able to buy, sell, exchange and speculate on currencies, is one of the world's largest and most actively traded financial markets. According to the Bank of International Settlements ("BIS"), trading in global foreign exchange markets averaged \$5.3 trillion per day in April 2013. Currencies are traded in pairs and the transacted rate represents the rate to exchange one currency for another currency. The U.S. Dollar is the dominant currency in the foreign exchange market. The exchange of the U.S. Dollar for another currency accounts for an estimated 87% of global foreign exchange market activity. The most actively traded currency pairs are the Euro/U.S. Dollar (EUR/USD), U.S. Dollar/Japanese Yen (USD/JPY), and British Pound Sterling/U.S. Dollar (GBP/USD). Participants in the FX market include banks, investment firms, commercial companies, central banks, hedge funds and retail customers.

The foreign exchange market is comprised of many instruments including spot, forwards, swaps, futures and option contracts.

2. WM/R Rates Overview

The WM/R Rates, one of the leading and most widely referenced foreign exchange benchmark rates, are calculated multiple times daily, including at 4 p.m. London time, which is commonly referred to as the “WM/R 4 p.m. London fix” or the “4 p.m. fix.”³ For twenty-one of the most liquid currencies (the “trade currencies”), the 4 p.m. fix is based on actual trades, using bids and offers extracted from a certain electronic trading system during a one-minute window (“fix period”). WM/Reuters determines the bid and offer rates based on the captured transacted rate and the bid-offer spread. WM/Reuters then calculates the median of these bid and offer rates and from these medians determines a “mid trade rate.” If there are not enough trades, WM/Reuters calculates a “mid order rate.” All orders and transactions are weighted equally, regardless of their notional sizes.

The WM/R Rates for the other 139 less liquid currencies (the “non-trade currencies”) are set by similar methodology. Because these currencies are less liquid, WM/Reuters relies on indicative quotes (submissions) derived from a Reuters computer feed that solicits “indications of interest” from market participants as part of its fixing methodology. WM/Reuters captures independent snapshots of indicative quotes for bids and offers, and selects the median rate from these quotes as the “WM/R 4 p.m. London fix.”

WM/Reuters also provides fix rates for forward and non-deliverable forward contracts using methodology similar to that used for non-trade currencies. Fix rates for forward and non-deliverable forward contracts are published using a premium or discount to the spot rate for the relevant currency pair.

Other FX benchmark rates are also priced through the use of indicative rates. For instance, the Russian Ruble/U.S. Dollar Emerging Markets Trade Association (“EMTA”) benchmark rates are based on indicative rates submitted by market participants to the Chicago Mercantile Exchange (“CME”), which takes the midpoint of submitted bid-offer pairs that it randomly selects, discards the highest and lowest midpoints, and calculates the final benchmark rate using the mean of the remaining midpoints.

Foreign exchange futures contracts are connected to FX benchmark rates. The CME Russian Ruble/U.S. Dollar (RUB/USD) futures contract, for instance, is a cash settled futures contract for which the final settlement rate, a component of the contract’s price, is equal to the reciprocal of the EMTA Russian Ruble/U.S. Dollar benchmark rate. Exchange rates in many actively traded CME foreign exchange futures contracts, including the Euro/U.S. Dollar (EUR/USD) futures, the U.S. Dollar/Japanese Yen (USD/JPY) futures, and British Pound Sterling/U.S. Dollar (GBP/USD) futures, track rates in spot foreign exchange markets at near

³ Another important benchmark is the European Central Bank (“ECB”) rate set by the ECB at 1:15 p.m. London time. Though less widely referenced than the WM/R Rate, the ECB Rates are also used by a wide range of participants, specifically non-financial corporates and are important for the non-deliverable forwards market. See Financial Stability Board Foreign Exchange Benchmarks Final Report at 1. (September 30, 2014).

parity after adjusting for the forward differential, or adding or subtracting “forward points.” Speculative traders employ strategies that seek to capture short-lived arbitrage opportunities between foreign exchange futures and spot contracts. Since 2012, the CME provides clearing and other services for cash-settled Over the Counter FX Spot, Forward, Swaps, and Non-Deliverable Forward (NDF) contracts. The contracts cover 26 currency pairs, including EUR/USD, USD/JPY, and GBP/USD, and are cash-settled based on the WM/R 4 p.m. London fix.

3. JPMC Traders’ Attempts to Manipulate FX Benchmark Rates

In late 2008, following the financial crisis, liquidity and volume in the FX market increased as many financial institutions and other market participants sought to exchange currencies. The increase in volume and liquidity allowed JPMC FX traders and traders at other banks to take advantage of this trading opportunity, specifically during the FX benchmark rate fixing periods.

At the same time, certain FX traders at JPMC and other banks had and/or developed relationships with certain FX traders at other banks, and they increasingly used private chat rooms to communicate and share information with each other. Certain FX traders at JPMC and other banks routinely participated in the chat rooms. Often, these FX traders had multiple chat rooms open simultaneously on their trading terminals, and within a chat, the traders often focused on a particular currency pair. Being a member of certain chat rooms was sometimes exclusive and by invitation only.

For example, when inviting in a new member, traders in one chat room tried to ensure that a new member agreed to put the interests of the group first. In one chat, the JPMC trader discussed with traders from Banks X and Z whether to invite a trader from Bank W into the chat room:⁴

Bank Z Trader:	7:49:55	are we ok with keeping this as is .. ie the info lvls & risk sharing?
Bank X Trader:	7:50:27	well...
Bank Z Trader:	7:50:30	that is the qu[estion]
Bank X Trader:	7:50:32	you know him best obv...
	7:50:39	if you think we need to adjust it
	7:50:43	then he shouldn't be[] in chat
JPMC Trader:	7:50:54	yeah that is key
	7:51:00	simple question [Bank Z trader]
	7:51:08	I trust you implicitly [Bank Z trader]
	7:51:13	and your judgement
	7:51:16	you know him
	7:51:21	will he tell rest of desk stuff
	7:51:26	or god forbin his nyk...

⁴ The communications quoted in this Order contain shorthand trader language and many typographical errors. The shorthand and errors are explained in brackets within the quotations only when deemed necessary to assist with understanding the discussion.

Bank X Trader:	7:51:46	yes
	7:51:51	that's really imp[ortant] q[uestion]
	7:52:01	dont want other numpty's in mkt to know
	7:52:17	but not only that
	7:52:21	is he gonna protect us
	7:52:33	like we protect each other against our own branches
	7:52:46	ie if you guys are rhs ⁵ .. and my nyk is lhs..ill say my nyk lhs in few
Bank Z Trader:	7:53:52	what concerns me is that i know he'll never tell us when at risk...

After further discussion of whether the fourth trader would “add huge value to this cartell,” the traders decided to invite the trader into the chat room for a “1 month trial,” with the Bank X trader warning him, presumably facetiously, “mess this up and sleep with one eye open at night.”

These chat rooms were the vehicles through which certain JPMC FX traders and traders at other banks coordinated attempts to manipulate certain FX benchmark rates, including the WM/R 4 p.m. fix. Certain chat room participants used code words to evade detection by their banks' compliance monitoring systems.

At times during the Relevant Period, in their attempts to manipulate certain benchmarks (up or down), JPMC FX traders exchanged the size and direction of the bank's net orders with FX traders at other banks and used this information to attempt to coordinate trading strategies. The traders at times then used this information to enable one or more traders to attempt to manipulate the FX benchmark rates prior to and during the relevant fixing period.

For example, in one of the chat rooms, if a trader determined that he had fix orders in the opposite direction to the chat room group's overall net fixing position approaching the fixing window, that trader may have transacted before the fix period with traders outside the private chat room, a practice known by market participants as “netting off,” rather than transact with other traders within the chat room.⁶ In certain cases, the goal of this trading strategy was to maintain the volume of orders held by chat room members in the direction favored by the majority of the private chat room members and limit orders being executed in the opposite direction during the fix window.

If traders in the chat room had net orders in the same direction as what they desired rate movement at the fix to be, then the traders would at times either (1) match off these orders with traders outside of the chat room in an attempt to reduce the volume of orders in the opposite direction transacted during the fix period; (2) transfer their orders to a single trader within the chat room who could then execute a single order during the fix period; or (3) transact with traders outside of the chat room to increase the volume traded by chat room members during the

⁵ If an FX trader has orders to sell of the first currency listed in any currency pair, it is often referred to as being on the left-hand side, or “lhs.” If an FX trader references right hand side, or “rhs,” it indicates that the FX trader is a buyer of the first currency listed in a currency pair.

⁶ The Commission does not consider that the netting off of orders (or the decision not to net off) ahead of fixes is inappropriate in all circumstances.

fix window in the direction favored by the private chat room traders. At times, traders also increased the volume traded by them at the fix in the direction favored by the chat room traders in excess of the volume necessary to manage the risk associated with their banks' net buy or sell orders at the fix. At times, these actions were undertaken in order to attempt to manipulate the benchmark rate set during the fix period.

Some examples of JPMC FX traders' misconduct include:

In one example, a JPMC FX trader and a Bank W trader coordinated their trading in an attempt to manipulate the 4 p.m. EUR/USD fix. At 3:43:50, the Bank W trader asked the JPMC trader whether he needed to buy Euros in the market in the forthcoming fix. The JPMC trader responded that he had a net buy order for the fix, which he subsequently confirmed as totaling EUR105 million. At 3:44:04, the JPMC trader offered to transfer that net buy order to the Bank W trader. The Bank W trader replied "maybe" and then stated that he had a net buy order for EUR 150 million.

The traders had the following exchange:

Bank W Trader:	3:46:53	i'd prefer we join forces
JPMC Trader:	3:46:56	perfick
	3:46:59	lets do this...
JPMC Trader:	3:47:11	lets double team them
Bank W Trader:	3:47:12	YESssssssssssss

Immediately after the fixing window, the traders congratulated themselves:

Bank W Trader:	4:03:25	sml rumour we haven't lost it
JPMC Trader:	4:03:45	we
	4:03:46	do
	4:03:48	dollarr

Similarly, on another occasion, JPMC trader coordinated with a trader from Bank X in an attempt to manipulate the EUR/USD fix just ahead of the 4 p.m. fix:

JPMC Trader:	3:51:21	ok, i got a lot of euros
Bank X Trader:	3:51:25	?
	3:51:28	you selling?
JPMC Trader:	3:51:30	yes
Bank X Trader:	3:51:33	now
	3:51:35	or pickun? ⁷
JPMC Trader:	3:51:39	pick un
	3:51:46	u want it? ...
Bank X Trader:	3:52:24	ill take it [JPMC trader]
	3:52:26	if u dont want it

⁷ "Pickun" is a slang term for a fix orders.

JPMC Trader:	3:52:39	tell you what
	3:52:42	lets double team it
	3:52:45	how much u got
Bank X Trader:	3:52:46	ok
	3:52:47	300
	3:52:52	u?
JPMC Trader:	3:53:01	ok ill give u 500 more
Bank X Trader:	3:53:05	wow
	3:53:06	ok
	3:53:08	ha
	3:53:09	cool...
JPMC Trader:	3:53:20	so we have 800 each
	3:53:21	ok
	3:53:31	but we gotta both do some at fix
	3:53:36	don't sell em all and take foot off haha
Bank X Trader:	3:53:40	i promise i will
JPMC Trader:	3:53:47	me too

At 4:00:14, however, the Bank X trader reported that he was “hosed.” The JPMC trader replied with “ditto.” They then proceeded to discuss what went wrong and speculate about which traders outside the chat room might have executed trades that went against them and caused the rate to fix at an unfavorable level.

4. Respondent Lacked Adequate Internal Controls

During the Relevant Period, JPMC failed to adequately assess the risks associated with its FX traders participating in the fixing of certain FX benchmark rates. JPMC also lacked adequate internal controls in order to prevent its FX traders from engaging in improper communications with certain FX traders at other banks. JPMC lacked sufficient policies, procedures and training specifically governing participation in trading around the FX benchmarks rates and had inadequate policies pertaining to, or insufficient oversight of, its FX traders’ use of chat rooms or other electronic messaging.

After the Relevant Period, in June 2013, JPMC commenced an internal investigation of possible misconduct by its FX traders relating to foreign exchange benchmarks. JPMC has since undertaken certain remedial measures to improve its internal controls and banned persistent multi-bank chat rooms in December 2013.

IV.

LEGAL DISCUSSION

A. Respondent, Through the Acts of Certain Traders, Attempted to Manipulate FX Benchmark Rates

Together, Sections 6(c),⁸ 6(d) and 9(a)(2) of the Act prohibit acts of attempted manipulation. 7 U.S.C. §§ 9, 13b and 13(a)(2) (2012). Section 9(a)(2) of the Act makes it unlawful for “[a]ny person to . . . attempt to manipulate the price of any commodity in interstate commerce, or for future delivery on or subject to the rules of any registered entity” 7 U.S.C. § 13(a)(2) (2012). Sections 6(c) and 6(d) of the Act authorize the Commission to serve a complaint and provide for the imposition of, among other things, civil monetary penalties and cease and desist orders if the Commission “has reason to believe that any person” has attempted to manipulate the market price of any commodity, in interstate commerce, or otherwise is violating or has violated any of the provisions of the Act. 7 U.S.C. §§ 9 and 13b (2012).

With respect to conduct on or after August 15, 2011, in addition to Sections 6(c), 6(d) and 9(a)(2), Section 6(c)(3) of the Act prohibits the attempted manipulation of the price of any commodity in interstate commerce. 7 U.S.C. § 9(3) (2012). Commission Regulation 180.2, 17 C.F.R. § 180.2 (2014), which became effective on August 15, 2011, in relevant part, makes it “unlawful . . . directly or indirectly . . . to attempt to manipulate, the price of . . . any commodity in interstate commerce” Regulation 180.2 codifies Section 6(c)(3).

Two elements are required to prove an attempted manipulation: (1) an intent to affect the market price, and (2) an overt act in furtherance of that intent. *See In re Hohenberg Bros. Co.*, [1975-77 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 20,271, at 21,477 (CFTC Feb. 18, 1977); *CFTC v. Bradley*, 408 F. Supp. 2d 1214, 1220 (N.D. Okla. 2005). To prove the intent element of attempted manipulation, it must be shown that JPMC FX traders “acted (or failed to act) with the purpose or conscious object of causing or effecting a price or price trend in the market that did not reflect the legitimate forces of supply and demand.” *In re Indiana Farm Bureau Coop. Ass’n*, [1982-1984 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 21,796, at 27,283 (CFTC Dec. 17, 1982). “[W]hile knowledge of relevant market conditions is probative of intent, it is not necessary to prove that the accused knew to any particular degree of certainty that his actions would create an artificial price. It is enough to present evidence from which it may reasonably be inferred that the accused ‘consciously desire[d] that result, whatever the likelihood of that result happening from his conduct.’ ” *Id.* (quoting *U.S. v. U.S. Gypsum Co.*, 438 U.S. 422, 445 (1978)). A profit motive may also be evidence of intent, although profit motive is not a necessary element of an attempted manipulation. *See In re DiPlacido*, [2007-2009 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 30,970, at 62,484 (CFTC Nov. 5, 2008) (citing *In re Hohenberg Bros. Co.*, [1975-1977 Transfer Binder] Comm. Fut. L. Rep. (CCH) at 21,478)), *aff’d*, 364 Fed. Appx. 657, No. 08-5559-ag, 2009 WL 3326624 (2d Cir. 2009). It is also not necessary that there be an actual effect on price. *See CFTC v. Amaranth Advisors, L.L.C.*, 554 F. Supp.2d 523, 533 (S.D.N.Y. 2008).

⁸ Section 6(c) was amended effective August 15, 2011. For conduct occurring on or after that date, the relevant provision of the Act is 6(c)(4)(A). 7 U.S.C. § 9(4)(A) (2012).

Here, as evidenced by the foregoing, JPMC engaged in acts of attempted manipulation in violation of Sections 6(c), 6(d) and 9(a)(2), 7 U.S.C. §§ 9, 13b and 13(a)(2) (2012). Additionally, with respect to conduct occurring on or after August 15, 2011, JPMC engaged in acts of attempted manipulation in violation of Section 6(c)(3), 7 U.S.C. § 9(3) (2012), and Regulation 180.2, 17 C.F.R. § 180.2 (2014).

B. Respondent Aided and Abetted the Attempts of Certain Traders at Other Banks to Manipulate FX Benchmark Rates

Pursuant to Section 13(a) of the Act, liability as an aider and abettor requires proof that: (1) the Act was violated, (2) the aider and abettor had knowledge of the wrongdoing underlying the violation, and (3) the aider and abettor intentionally assisted the primary wrongdoer. 7 U.S.C. § 13c(a) (2012); *In re Sharokh Nikkhah*, [1999-2000 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 28,129, at 49,888 n.28 (CFTC May 12, 2000). Although actual knowledge of the primary wrongdoer's conduct is required, knowledge of the unlawfulness of such conduct is not necessarily required to be demonstrated. *See In re Lincolnwood Commodities, Inc.*, [1982-1984 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 21,986, at 28,255 (CFTC Jan. 31, 1984). Knowing assistance can be inferred from the surrounding facts and circumstances. *Id.* *See also In re Buckwalter*, [1990-1992 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 24,995, at 37,686 (CFTC Jan. 25, 1991).

Here, as evidenced by the foregoing, FX traders at other banks attempted to manipulate the WM/R and other FX benchmark rates in violation of Section 6(c), 6(d) and 9(a)(2), 7 U.S.C. §§ 9, 13b and 13(a)(2) (2012). Additionally, with respect to conduct occurring on or after August 15, 2011, FX traders at other banks violated Section 6(c)(3), 7 U.S.C. § 9(3), and Regulation 180.2, 17 C.F.R. § 180.2 (2014). As evidenced above, JPMC, through the acts of certain of its FX traders, aided and abetted the attempts of traders at other banks to manipulate the FX benchmark rates in violation of the Act.

C. Respondent is Liable for the Acts of its Agents

Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2(a)(1)(B) (2012), and Regulation 1.2, 17 C.F.R. § 1.2 (2014), provide that “[t]he act, omission, or failure of any official, agent or other person acting for any individual, association, partnership, corporation, or trust within the scope of his employment or office shall be deemed the act, omission, or failure of such individual, association, partnership, corporation or trust[.]” Pursuant to Section 2(a)(1)(B) of the Act and Commission Regulation 1.2, strict liability is imposed on principals for the actions of their agents. *See, e.g., Rosenthal & Co. v. CFTC*, 802 F.2d 963, 966 (7th Cir. 1986); *Dohmen-Ramirez & Wellington Advisory, Inc. v. CFTC*, 837 F.2d 847, 857-58 (9th Cir. 1988).

JPMC is liable for the acts, omissions and failures of any traders who acted as its employees and/or agents in relation to the conduct described above. Accordingly, JPMC violated Sections 6(c), 6(d) and 9(a)(2), 7 U.S.C. §§ 9(3), 13b and 13(a)(2) (2012) by engaging in attempted manipulation and aiding and abetting attempted manipulation. Additionally, with respect to conduct occurring on or after August 15, 2011, JPMC is liable for violating Section

6(c)(3), 7 U.S.C. § 9(3), 13(a)(2) (2012), and Regulation 180.2, 17 C.F.R. § 180.2 (2014), as set forth above.

V.

FINDINGS OF VIOLATIONS

Based on the foregoing, the Commission finds that Respondent violated Sections 6(c), 6(d) and 9(a)(2) of the Act, 7 U.S.C. §§ 9, 13b and 13(a)(2) (2012), and for conduct occurring on or after August 15, 2011, Section 6(c)(3), 7 U.S.C. § 9(3) and Regulation 180.2, 17 C.F.R. § 180.2 (2014).

VI.

OFFER OF SETTLEMENT

Respondent, without admitting or denying the findings or conclusions herein, has submitted the Offer in which it:

- A. Acknowledges receipt of service of this Order;
- B. Admits the jurisdiction of the Commission with respect to this Order only and for any action or proceeding brought or authorized by the Commission based on violation of or enforcement of this Order;
- C. Waives:
 - 1. the filing and service of a complaint and notice of hearing;
 - 2. a hearing;
 - 3. all post-hearing procedures;
 - 4. judicial review by any court;
 - 5. any and all objections to the participation by any member of the Commission's staff in the Commission's consideration of the Offer;
 - 6. any and all claims that it may possess under the Equal Access to Justice Act, 5 U.S.C. § 504 (2012) and 28 U.S.C. § 2412 (2012), and/or the rules promulgated by the Commission in conformity therewith, Part 148 of the Commission's Regulations, 17 C.F.R. §§ 148.1-30 (2014), relating to, or arising from, this proceeding;
 - 7. any and all claims that it may possess under the Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. No. 104-121, §§ 201-253, 110 Stat.

847, 857-868 (1996), as amended by Pub. L. No. 110-28, § 8302, 121 Stat. 112, 204-205 (2007), relating to, or arising from, this proceeding; and

8. any claims of Double Jeopardy based on the institution of this proceeding or the entry in this proceeding of any order imposing a civil monetary penalty or any other relief;
- D. Stipulates that the record basis on which this Order is entered shall consist solely of the findings contained in this Order to which Respondent has consented in the Offer; and
- E. Consents, solely on the basis of the Offer, to the Commission's entry of this Order that:
1. makes findings by the Commission that Respondent violated Section 6(c), 6(d) and 9(a)(2) of the Act, 7 U.S.C. §§ 9, 13b and 13(a)(2) (2012) and for conduct occurring on or after August 15, 2011, Section 6(c)(3), 7 U.S.C. §9(3) and Regulation 180.2, 17 C.F.R. § 180.2 (2014);
 2. orders Respondent to cease and desist from violating Sections 6(c)(3) and 9(a)(2) of the Act, 7 U.S.C. §§ 9(3) and 13(a)(2) (2012) and Regulation 180.2, 17 C.F.R. § 180.2 (2014);
 3. orders Respondent to pay a civil monetary penalty in the amount of \$310,000,000 plus post-judgment interest; and
 4. orders Respondent and its successors and assigns to comply with the conditions and undertakings consented to in the Offer and as set forth in Part VII of this Order.
- F. Respondent represents that it has already undertaken certain steps intended to make reasonable efforts to ensure the integrity of the FX markets, including, but not limited to, the following:
1. Restricting FX traders from participating in multi-bank chat rooms (except in limited circumstances);
 2. Strengthening transaction monitoring and communications surveillance programs for its FX desks;
 3. Revising relevant policies and procedures to provide FX traders more concrete and specific guidance;
 4. Implementing conduct and culture initiatives to evaluate business practices across the CIB and to create consistent principles regarding acceptable and unacceptable conduct, particularly in trading and communications flows; and
 5. Enhancing annual training for all FX traders and sales personnel involved in market-making activities concerning appropriate trading behavior.

Upon consideration, the Commission has determined to accept the Offer.

VII.

ORDER

Accordingly, IT IS HEREBY ORDERED THAT:

- A. Respondent shall cease and desist from violating Sections 6(c)(3) and 9(a)(2) of the Act, 7 U.S.C. §§ 9(3) and 13(a)(2) (2012) of the Act and Regulation 180.2, 17 C.F.R. § 180.2 (2014).
- B. Respondent shall pay a civil monetary penalty of \$310 Million Dollars (\$310,000,000), within ten (10) days of the date of entry of this Order (the "CMP Obligation"). If the CMP Obligation is not paid in full within ten (10) days of the date of entry of this Order, then post judgment interest shall accrue on the CMP Obligation beginning on the date of entry of this Order and shall be determined by using the Treasury Bill rate prevailing on the date of entry of this Order pursuant to 28 U.S.C. § 1961 (2012). Respondent shall pay the CMP Obligation by electronic funds transfer, U.S. postal money order, certified check, bank cashier's check, or bank money order. If payment is to be made other than by electronic funds transfer, then the payment shall be made payable to the Commodity Futures Trading Commission and sent to the address below:

Commodity Futures Trading Commission
Division of Enforcement
ATTN: Accounts Receivables --- AMZ 340
E-mail Box: 9-AMC-AMZ-AR-CFTC
DOT/FAA/MMAC
6500 S. MacArthur Blvd.
Oklahoma City, OK 73169
Telephone: (405) 954-7262

If payment is to be made by electronic funds transfer, Respondent shall contact Nikki Gibson or her successor at the above address to receive payment instructions and shall fully comply with those instructions. Respondent shall accompany payment of the CMP Obligation with a cover letter that identifies the Respondent and the name and docket number of this proceeding. The Respondent shall simultaneously transmit copies of the cover letter and the form of payment to the Chief Financial Officer, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, D.C. 20581.

- C. Respondent and its successors and assigns shall comply with the following undertakings set forth in the Offer:
 - 1. REMEDIATION

As set forth above in Section VI, paragraph F, Respondent represents that it has already undertaken and continues to undertake extensive remedial measures to implement and strengthen its internal controls and procedures relating to its participation in the fixing of FX benchmark rates and related supervision of its FX traders. With respect to its remediation efforts to the extent not already undertaken, Respondent undertakes that:

- a. Respondent will implement and improve its internal controls and procedures in a manner reasonably designed to ensure the integrity of its participation in the fixing of any FX benchmark rate, including measures to identify and address internal or external conflicts of interest;
- b. Its remediation improvements will include internal controls and procedures relating to:
 - measures designed to enhance the detection and deterrence of improper communications concerning FX benchmark rates, including the form and manner in which communications may occur;
 - monitoring systems designed to enhance the detection and deterrence of trading or other conduct potentially intended to manipulate directly or indirectly FX benchmark rates;
 - periodic audits, at least annually, of Respondent's participation in the fixing of any FX benchmark rate;
 - supervision of trading desks that participate in the fixing of any FX benchmark rate;
 - routine and on-going training of all traders, supervisors and others who are involved in the fixing of any FX benchmark rate;
 - processes for the periodic but routine review of written and oral communications of any traders, supervisors and others who are involved in the fixing of any FX benchmark rate with the review being documented and documentation being maintained for a period of three years; and
 - continuing to implement its system for reporting, handling and investigating any suspected misconduct or questionable, unusual or unlawful activity relating to the fixing of any FX benchmark rate with escalation to compliance and legal and with reporting of material matters to the executive management of JPMC and the Commission, as appropriate; the Respondent shall maintain the record basis of the handling of each such matter for a period of three years.

- c. Within 120 days of the entry of this Order, the Respondent shall make a report to the Commission, through the Division, concerning its remediation efforts, prior to and since the entry of this Order. Within 365 days of the entry of this Order, Respondent shall submit a report to the Commission, through the Division, explaining how it has complied with the undertakings set forth herein. The report shall contain a certification from a representative of the Respondent's Executive Management, after consultation with the Respondent's chief compliance officer(s), that the Respondent has complied with the undertakings set forth above, and that it has established policies, procedures, and controls to satisfy the undertakings set forth in the Order.

2. COOPERATION WITH THE COMMISSION

In this action, and in any investigation or other action instituted by the Commission, related to the subject matter of this action, Respondent shall cooperate fully and expeditiously with the Commission, including the Division. As part of such cooperation, Respondent agrees to the following for a period of three (3) years from the date of the entry of this Order, or until all related investigations and litigations in which the Commission, including the Division, is a party, are concluded, including through the appellate review process, whichever period is longer:

1. Preserve all records relating to the subject matter of this proceeding, including, but not limited to, audio files, electronic mail, other documented communications, and trading records;
2. Comply fully, promptly, completely, and truthfully with all inquiries and requests for non-privileged information or documents;
3. Provide authentication of documents and other evidentiary material;
4. Provide copies of non-privileged documents within JPMC's possession, custody or control;
5. Subject to applicable laws and regulations, JPMC will make its best efforts to produce any current (as of the time of the request) officer, director, employee, or agent of JPMC, regardless of the individual's location, and at such location that minimizes Commission travel expenditures, to provide assistance at any trial, proceeding, or Commission investigation related to the subject matter of this proceeding, including, but not limited to, requests for testimony, depositions, and/or interviews, and to encourage them to testify

completely and truthfully in any such proceeding, trial, or investigation; and

6. Subject to applicable laws and regulations, JPMC will make its best efforts to assist in locating and contacting any prior (as of the time of the request) officer, director, employee or agent of JPMC;

Respondent also agrees that it will not undertake any act that would limit its ability to cooperate fully with the Commission. JPMC will designate an agent located in the United States of America to receive all requests for information pursuant to these Undertakings, and shall provide notice regarding the identity of such Agent to the Division upon entry of this Order. Should JPMC seek to change the designated agent to receive such requests, notice of such intention shall be given to the Division fourteen (14) days before it occurs. Any person designated to receive such request shall be located in the United States of America; and

3. PROHIBITED OR CONFLICTING UNDERTAKINGS

Should the Undertakings herein be prohibited by, or be contrary to the provisions of any obligations imposed on Respondent by any presently existing, or hereinafter enacted or promulgated laws, regulations, regulatory mandates, or the rules or definitions issued by a Benchmark Publisher, then Respondent shall promptly transmit notice to the Commission (through the Division) of such prohibition or conflict, and shall meet and confer in good faith with the Commission (through the Division) to reach an agreement regarding possible modifications to the Undertakings herein sufficient to resolve such inconsistent obligations. In the interim, Respondent will abide by the obligations imposed by the law, regulations, regulatory mandates and Benchmark Publishers' rules and definitions. Nothing in these Undertakings shall limit, restrict or narrow any obligations pursuant to the Act or the Commission's Regulations promulgated thereunder, including, but not limited to, Regulations 1.31 and 1.35, 17 C.F.R. §§ 1.31 and 1.35 (2014), in effect now or in the future.

4. PUBLIC STATEMENTS

Respondent agrees that neither it nor any of its successors and assigns, agents or employees under its authority or control shall take any action or make any public statement denying, directly or indirectly, any findings or conclusions in this Order or creating, or tending to create, the impression that this Order is without a factual basis; provided, however, that nothing in this provision shall affect Respondent's (i) testimonial obligations, or (ii) right to take positions in other proceedings to which the Commission is not a party. Respondent and its successors and assigns shall undertake all steps necessary to ensure that all of its agents and/or

employees under its authority or control understand and comply with this agreement.

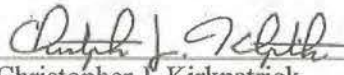
5. Pursuant to Rule 506(d)(1)(iii)(B), 17 C.F.R. § 230.506(d)(1)(iii)(B), of the Securities & Exchange Commission's Regulation D, this Order constitutes a Commission final order based on a violation of law and regulation that prohibits manipulative conduct. Nevertheless, under the specific and unique facts and circumstances presented here, pursuant to Rule 506(d)(2)(iii), disqualification under Rule 506(d)(1) of the Regulation D exemption should not arise as a consequence of this Order.

6. **PARTIAL SATISFACTION**

Respondent understands and agrees that any acceptance by the Commission of partial payment of Respondent's CMP Obligation shall not be deemed a waiver of its obligation to make further payments pursuant to this Order, or a waiver of the Commission's right to seek to compel payment of any remaining balance.

The provisions of this Order shall be effective as of this date.

By the Commission.



Christopher J. Kirkpatrick
Secretary of the Commission
Commodity Futures Trading Commission

Dated: November 11, 2014

FCA Notice



WARNING NOTICE

To: **JPMorgan Chase Bank N.A.**

Firm

Reference

Number: **124491**

Date: **11 November 2014**

1. PROPOSED ACTION

- 1.1. For the reasons given in this Notice, the Authority proposes to impose on JPMorgan Chase Bank N.A. ("JPMorgan") a financial penalty of £222,166,000.
- 1.2. JPMorgan agreed to settle at an early stage of the Authority's investigation. JPMorgan therefore qualified for a 30% (Stage 1) discount under the Authority's executive settlement procedures. Were it not for this discount, the Authority would have imposed a financial penalty of £317,380,000 on JPMorgan.

2. SUMMARY OF REASONS

- 2.1. The foreign exchange market ("FX market") is one of the largest and most liquid markets in the world.¹ Its integrity is of central importance to the UK and global financial systems. Over a period of five years, JPMorgan failed properly to control its London voice trading operations in the G10 spot FX market, with the result that traders in this part of its business were able to behave in a manner that put JPMorgan's interests ahead of the interests of its clients, other market participants and the wider UK financial system.
- 2.2. The Authority expects firms to identify, assess and manage appropriately the risks that their business poses to the markets in which they operate and to preserve market integrity, irrespective of whether or not those markets are regulated. The Authority also expects firms to promote a culture which requires their staff to have regard to the impact of their behaviour on clients, other participants in those markets and the financial markets as a whole.
- 2.3. JPMorgan's failure adequately to control its London voice trading operations in the G10 spot FX market is extremely serious. The importance of this market and its widespread use by market participants throughout the financial system means that misconduct relating to it has potentially damaging and far-reaching consequences for the G10 spot FX market and financial markets generally. The failings described in this Notice undermine confidence in the UK financial system and put its integrity at risk.
- 2.4. JPMorgan breached Principle 3 of the Authority's Principles for Businesses in the period from 1 January 2008 to 15 October 2013 ("the Relevant Period") by failing to take reasonable care to organise and control its affairs responsibly and effectively with adequate risk management systems in relation to G10 spot FX voice trading in London. References in this Notice to JPMorgan's G10 spot FX trading business refer to its relevant voice trading desk based in London.
- 2.5. During the Relevant Period, JPMorgan did not exercise adequate and effective control over its G10 spot FX trading business. JPMorgan

¹ The daily average volume turnover of the global FX market was over USD5 trillion in April 2013 according to the Bank for International Settlements (BIS) Triennial Central Bank Survey 2013.

relied primarily upon its front office FX business to identify, assess and manage risks arising in that business. The front office failed adequately to discharge these responsibilities with regard to obvious risks associated with confidentiality, conflicts of interest and trading conduct. The right values and culture were not sufficiently embedded in JPMorgan's G10 spot FX trading business, which resulted in it acting in JPMorgan's own interests as described in this Notice without proper regard for the interests of its clients, other market participants or the wider UK financial system. The lack of proper control by JPMorgan over the activities of its G10 spot FX traders in London undermined market integrity and meant that misconduct went undetected for a number of years. JPMorgan's control and risk functions failed to challenge effectively the management of these risks in the G10 spot FX trading business.

2.6. JPMorgan's failings in this regard allowed the following behaviours to occur in its G10 spot FX trading business:

- (1) Attempts to manipulate the WMR and the ECB fix rates, alone or in collusion with traders at other firms, for JPMorgan's own benefit and to the potential detriment of certain of its clients and/or other market participants;
- (2) Attempts to trigger clients' stop loss orders for JPMorgan's own benefit and to the potential detriment of those clients and/or other market participants; and
- (3) Inappropriate sharing of confidential information with traders at other firms, including specific client identities and, as part of (1) and (2) above, information about clients' orders.

2.7. These failings occurred in circumstances where certain of those responsible for managing front office matters were aware of and/or at times involved in behaviours described above. They also occurred despite the fact that risks around confidentiality were highlighted when, in March 2012, London FX front office requested guidance from JPMorgan Compliance regarding information sharing with other banks ahead of fixes.

2.8. JPMorgan was aware during the Relevant Period of misconduct associated with LIBOR / EURIBOR, which was identified in well-publicised Final Notices issued against other firms from June 2012

onwards. JPMorgan was not subject to enforcement action by the FCA for LIBOR / EURIBOR misconduct during the Relevant Period. It nonetheless engaged in a remediation programme across its businesses in response to these Notices. This included policy enhancements regarding submissions-based benchmarks. Despite these improvements, the steps taken during the Relevant Period in its G10 spot FX business did not adequately address the root causes that gave rise to failings described in this Notice.

- 2.9. The Authority therefore proposes to impose a financial penalty on JPMorgan in the amount of £222,166,000 pursuant to section 206 of the Act.
- 2.10. The Authority acknowledges the significant co-operation and assistance provided by JPMorgan during the course of its investigation. JPMorgan is continuing to undertake remedial action and has committed significant resources to improving the business practices and associated controls relating to its FX operations. The Authority recognises the work already undertaken by JPMorgan in this regard.
- 2.11. This Notice relates solely to JPMorgan's conduct in its G10 spot FX trading business in London. It makes no criticism of any entities other than the firms engaged in misconduct as described in this Notice.

3. DEFINITIONS

- 3.1. The definitions below are used in this Warning Notice.

"the Act" means the Financial Services and Markets Act 2000

"the Authority" means the body corporate previously known as the Financial Services Authority and renamed on 1 April 2013 as the Financial Conduct Authority

"the BoE" means the Bank of England

"the BIS survey" means the Bank for International Settlements (BIS) Triennial Central Bank Survey 2013

"CDSG" means the BoE's Chief Dealers' Sub-Group

"clients" means persons to whom a firm provides G10 spot FX voice trading services

"EBS" means the Electronic Brokerage Service, an electronic broking platform

"ECB" means the European Central Bank

"1:15pm ECB fix" or "ECB fix" is the exchange rate for various spot FX currency pairs as determined by the ECB as at 1:15pm UK time

"EURIBOR" means the Euro Interbank Offered Rate

"firms" means authorised persons as defined in section 31 of the Act

"FX" means foreign exchange

"G10 currencies" means the following currencies:

USD	US dollar
EUR	Euro
JPY	Japanese yen
GBP	British pound
CHF	Swiss franc
AUD	Australian dollar
NZD	New Zealand dollar
CAD	Canadian dollar
NOK	Norwegian krone
SEK	Swedish krona

"LIBOR" means the London Interbank Offered Rate

"the ACI Model Code" means the Model Code issued by the ACI – the Financial Markets Association, as applicable during the Relevant Period

"net client orders" has the meaning given to that term at paragraph 3.2 of Annex B to this Notice

"the NIPS Code" means the Non-Investment Products Code, as applicable during the Relevant Period

"the Principles" means the Authority's Principles for Businesses

"Reuters" means the Reuters Dealing 3000, an electronic broking platform operated by Thomson Reuters

"the Relevant Period" means 1 January 2008 to 15 October 2013

"spot FX" has the meaning given to that term in paragraph 4.3 of this Notice

"the spot FX rate" means the current exchange rate at which a currency pair can be bought or sold

"the Tribunal" means the Upper Tribunal (Tax and Chancery Chamber)

"the UK financial system" means the financial system operating in the United Kingdom, including financial markets and exchanges, regulated activities and other activities connected with financial markets and exchanges

"4pm WM Reuters fix" or "WMR fix" is the exchange rate for various spot FX currency pairs determined by WM Reuters as at 4pm UK time

4. FACTS AND MATTERS

Relevant background

The FX market

- 4.1. The FX market, in which participants are able to buy, sell, exchange and speculate on currencies, is one of the largest financial markets in the world. Participants in the FX market include banks, commercial companies, central banks, investment management firms, hedge funds and retail investors.
- 4.2. The most significant currencies traded in the FX market are G10 currencies in terms of turnover and their widespread use within global financial markets. According to the BIS survey, almost 75% of all global FX trading in April 2013 was conducted in G10 currency pairs, with a daily average turnover of almost USD4 trillion. The top currencies by daily volume of FX trading in April 2013 were US dollar, Euro, Japanese yen and British pound, with the largest turnover in EUR/USD, USD/JPY and GBP/USD currency pairs.

4.3. The FX market includes transactions involving the exchange of currencies between two parties at an agreed rate for settlement on a spot date (usually two business days from the trade date) ("spot FX"). Benchmarks set in the spot FX market, especially in G10 currency pairs, are used throughout the world to establish the relative values of different currencies and are of crucial importance in worldwide financial markets. In particular, benchmarks such as the 4pm WM Reuters and 1:15pm ECB fixes are used in the valuation and performance management of investment portfolios held by pension funds and asset managers both in the UK and globally. The rates established at these fixes are also used as reference rates in financial derivatives.

4.4. A fuller description of the spot FX market and the background matters described below is set out in Annex B to this Notice.

The 4pm WM Reuters fix and the 1:15pm ECB fix

4.5. Two of the most widely referenced spot FX benchmarks are the 4pm WM Reuters fix and the 1:15pm ECB fix, which are each used to determine benchmark rates for various currency pairs. For G10 currency pairs, these fixes are based upon spot FX trading activity by market participants at or around the times of the respective 4pm WM Reuters or 1:15pm ECB fixes.

Fix orders

4.6. Prior to a fix, clients often place orders with a firm to buy or sell a specified volume of currency "at the fix rate". This is a reference to the rate that will be determined at a forthcoming fix and the firm agrees to transact with clients at that rate.

4.7. By agreeing to transact with clients at a fix rate that is yet to be determined, the firm is exposed to rate movements at the fix. A firm will typically buy or sell currency in order to manage this risk, for example by trading in the market or "netting off" (e.g. where a firm has a buying interest for the fix and trades with a market participant which has a selling interest for the fix).

4.8. A firm with net client orders to buy currency at the fix rate will make a profit if the average rate at which the firm buys the currency in the market is lower than the fix rate at which it sells to its clients. Similarly, a firm with net client orders to sell currency at the fix rate

will make a profit if the average rate at which it sells the currency in the market is higher than the fix rate at which it buys from its clients.

- 4.9. A firm legitimately managing the risk arising from its net client orders at the fix rate may make a profit or loss from its associated trading in the market. Such trading can, however, potentially influence the fix rate. For example, a firm buying a large volume of currency in the market just before or during the fix may cause the fix rate to move higher. This gives rise to a potential conflict of interest between a firm and its clients. It also creates a potential incentive for a firm to seek to manipulate the fix rate to its benefit and to the potential detriment of certain of its clients. For example, there is a risk that a firm with net client orders to buy a particular currency at the fix rate might deliberately trade in a manner designed to manipulate the fix rate higher. This trading could result in a profit for the firm as described above, but may result in certain clients paying a higher fix rate than they would otherwise have had to pay.

Fix Orders – The Bank of England

- 4.10. The Bank of England (the “BoE”) through its membership of the Chief Dealers’ Sub-Group (“CDSG”)² was made aware during the Relevant Period of firms using electronic messaging services, such as chat rooms, to discuss their net orders ahead of fixes and the practice of netting off between them. For the avoidance of doubt, the Authority does not consider that the netting off of orders ahead of fixes is inappropriate in all circumstances. The Authority has concluded that the fact that netting off was discussed by the CDSG does not affect the liability of the firms. Each firm was responsible for ensuring that it had appropriate systems and controls to manage the risks associated with these practices. The BoE has conducted its own investigation into the role of its officials in relation to certain conduct issues in the FX market which is being published separately.³

² The CDSG is a sub-group of the London Foreign Exchange Joint Standing Committee established under the auspices of the BoE. Its membership is drawn from a selection of chief dealers active in the London FX market and is chaired by a representative of the BoE.

³ The terms of reference of which are available at:

<http://www.bankofengland.co.uk/publications/Pages/asset/20140517.aspx>

Stop loss orders

- 4.11. Clients place stop loss orders with a firm to help manage their risk arising from movements in currency rates in the spot FX market. By accepting these orders, the firm agrees to transact with the client at or around a specified rate if the currency trades at that rate in the market. No binding agreement is made until the agreed rate has been “triggered” (i.e. when the currency trades at that rate in the market).
- 4.12. By agreeing to transact with a client at or around the specified rate, the firm is exposed to movements in the spot FX rate. A firm will typically buy or sell currency in the market in order to manage this risk. This trading can result in a profit or a loss for the firm. For example, a client’s stop loss order to buy currency can result in a profit for the firm if the average rate at which the firm buys the currency in the market is lower than the rate at which it sells the currency to the client pursuant to the stop loss order.
- 4.13. A firm legitimately managing the risk arising from a client’s stop loss order may profit from the trading associated with its risk management. There is, however, a potential incentive for a firm to manipulate the spot FX rate in order to execute stop loss orders for the firm’s benefit and to the potential detriment of its client. For example, a firm with a client stop loss order to buy a particular currency might deliberately trade in a manner designed to manipulate the spot FX rate higher in order to trigger the client’s order at the specified rate. This could result in the firm making a profit as described above. The client could be disadvantaged, however, since the transaction may not have happened at that time or at all but for the firm’s actions.

Electronic messaging via chat rooms or similar

- 4.14. It was common practice during most of the Relevant Period for G10 spot FX traders at firms to use electronic messaging services, such as chat rooms, to communicate with traders at other firms. Whilst such communications are not of themselves inappropriate, the frequent and significant flow of information between traders at different firms increases the potential risk of traders engaging in collusive activity and sharing, amongst other things, confidential information. It is

therefore especially important that firms exercise appropriate control and monitoring of such communications.

Spot FX operations at JPMorgan

- 4.15. JPMorgan is a wholly owned subsidiary of J.P. Morgan Chase & Co. ("the Group"). JPMorgan is a full service bank, headquartered in the U.S., with operations in retail, wholesale and investment banking as well as treasury and securities services.
- 4.16. Throughout the Relevant Period, the Group's UK spot FX business was conducted out of London via JPMorgan. JPMorgan also conducted G10 spot FX trading out of New York, Tokyo and Sydney. According to the Euromoney⁴ FX Survey 2013, JPMorgan was listed in the top seven firms in terms of market share in global FX trading in spot and forwards.
- 4.17. JPMorgan operates a "three lines of defence" model to manage risk. JPMorgan's front office business lines (the first line of defence) had primary responsibility for identification of conduct risks, which they were expected to report to Compliance officers for escalation via relevant business control committees. In addition, the business line and compliance functions participated in regular risk assessments, which could also result in escalation of issues for remedial work by Compliance or Risk (the second line of defence) or Internal Audit (the third line of defence).

The failures of systems and controls at JPMorgan

- 4.18. In accordance with Principle 3, JPMorgan was under an obligation to identify, assess and manage appropriately the risks associated with its G10 spot FX trading business, given the potentially very significant impact of misconduct in that business on G10 fix benchmarks, the spot FX market generally and the wider UK financial system. JPMorgan failed to do so adequately during the Relevant Period in relation to risks associated with confidentiality, conflicts of interest and trading conduct in its G10 spot FX trading business in London.
- 4.19. There are no detailed requirements for systems and controls concerning spot FX trading in the Authority's Handbook. The

⁴ Euromoney is an English-language monthly magazine focused on business and finance. First published in 1969, it covers global banking, macroeconomics and capital markets, including debt and equity.

importance of firms implementing effective systems and controls to manage risks associated with their spot FX businesses was nonetheless recognised within the market, as evidenced by a number of industry codes published from time to time from 1975 onwards.

4.20. The codes applicable during the Relevant Period expressly recognised:

- (1) That manipulative practices by firms constituted "*unacceptable trading behaviour*" in the FX market;⁵
- (2) The need for FX trading management to "prohibit the deliberate exploitation of electronic dealing systems to generate artificial price behaviour";⁶
- (3) The need for firms to manage the conflict of interest between a firm handling client orders and trading for its own account so as to ensure that "*customers' interests are not exploited*" and "*the fair treatment of counterparties*";⁷
- (4) The importance of firms requiring standards that "*strive for best execution for the customer*" when managing client orders;⁸ and
- (5) The fundamental importance of preserving the confidentiality of client information as "*essential for the preservation of a reputable and efficient market place*".⁹

4.21. The key provisions of these codes relevant to the matters in this Notice are reproduced in Annex C.

Failure adequately to identify, assess and manage risks in JPMorgan's G10 spot FX trading business

4.22. JPMorgan failed to identify properly or take adequate steps to assess the risks described in this Notice associated with its G10 spot FX trading business, and to manage them effectively during the Relevant Period.

4.23. JPMorgan's G10 spot FX trading business involved traders receiving confidential information regarding, amongst other things, the size

⁵ Paragraph 1 of Annex C

⁶ Paragraph 1 of Annex C

⁷ Paragraph 1 and 2.1 of Annex C

⁸ Paragraph 1 of Annex C

⁹ Paragraph 2.1 of Annex C

and direction of its clients' fix orders and the size, direction and level of other client orders, including stop loss orders. Whilst receipt and use of such information for risk management purposes can be legitimate, there is a risk that the information could be improperly used by those traders to trade for JPMorgan's benefit and to the disadvantage of certain of its clients. If disclosed by JPMorgan to traders at other firms, it could also enable those traders improperly to take advantage of this information for their firms' benefit and to the potential detriment of certain of JPMorgan's clients, acting either alone or in collusion with G10 spot FX traders at JPMorgan. This gave rise to obvious risks in JPMorgan's G10 spot FX trading business concerning conflicts of interest, confidentiality and trading conduct. These risks were exacerbated by the widespread use by JPMorgan's G10 spot FX traders of chat rooms to communicate with traders at other firms.

- 4.24. Pursuant to its three lines of defence model, JPMorgan's front office had primary responsibility for identifying, assessing and managing the risks associated with its G10 spot FX trading business. The front office failed adequately to discharge these responsibilities with regard to the risks described in this Notice. The right values and culture were not sufficiently embedded in JPMorgan's G10 spot FX trading business, which resulted in it acting in JPMorgan's own interests as described in this Notice, without proper regard for the interests of its clients, other market participants or the wider UK financial system. The lack of proper controls by JPMorgan over the activities of its G10 spot FX traders meant that misconduct went undetected for a number of years. Certain of those responsible for managing front office matters were aware of and/or at times involved in the misconduct.
- 4.25. Whilst JPMorgan had policies in place regarding risks of the type described in this Notice, they were high-level in nature and applied generally across a number of JPMorgan's business divisions. There were no policies specific to FX and the guidance provided in the business-wide policies did not address the practical issues that traders in JPMorgan's G10 spot FX trading business faced on a daily basis. JPMorgan did not have any policies applicable to its G10 spot FX trading business specifically regarding the use by traders of chat

rooms or similar electronic messaging services during the Relevant Period. JPMorgan allowed its traders to participate in multi-bank chat rooms throughout the Relevant Period.

- 4.26. JPMorgan failed to take adequate steps to ensure that general policies concerning confidentiality, conflicts of interest and trading conduct were effectively implemented in its G10 spot FX trading business. There was insufficient training and guidance on how these policies should be applied specifically to that business. JPMorgan recognised this towards the end of 2011, and implemented FX-specific training in March 2012 as a result. This training prompted requests from the front office for specific guidance from Compliance. JPMorgan also rolled-out new firm-wide anti-trust training to London-based FX staff in September 2012. However, the new training contained few practical examples about the application of JPMorgan's policies and inadequate guidance on what amounted to unacceptable behaviour by G10 spot FX traders. The absence of adequate training and guidance about the application of JPMorgan's general policies to its G10 spot FX trading business increased the risk that misconduct would occur.
- 4.27. JPMorgan's day-to-day oversight of its G10 spot FX traders' conduct was insufficient. There was inadequate supervision by JPMorgan of those traders' conduct and use of chat rooms or similar communications during the Relevant Period. None of the systems and controls in JPMorgan's FX business were adequate to detect and prevent the behaviours described in this Notice.
- 4.28. JPMorgan's second and third lines of defence failed to challenge effectively the management of these risks by JPMorgan's front office. During the Relevant Period, JPMorgan did not conduct monitoring of chat rooms in which London traders participated, except for the purposes of anti-money laundering and wall-crossing concerns. This monitoring failed to identify the behaviours described in this Notice.
- 4.29. JPMorgan had certain G10 spot FX trade monitoring in place in London during the Relevant Period, which was not designed to identify the trading behaviours described in this Notice.
- 4.30. JPMorgan's failure to identify, assess and manage these risks appropriately is especially serious given that:

- (1) Certain of those responsible for managing front office matters were aware of and/or at times involved in behaviours described in this Notice.
- (2) JPMorgan was aware during the Relevant Period of misconduct associated with LIBOR / EURIBOR. The Authority published a Final Notice against another firm in relation to LIBOR / EURIBOR in June 2012. This, and other similar Notices published subsequently, highlighted, amongst other things, significant failings in the management and control of traders' activities by other firms' front office businesses. These included failing to address or adequately control conflicts of interest around benchmarks, inappropriate communications and other misconduct involving collusion between traders at different firms aimed at inappropriately influencing LIBOR / EURIBOR. The control failings at these other firms had led to a poor culture in the front office lacking appropriate ethical standards and resulted in an ineffective first line of defence. They allowed trader misconduct around LIBOR / EURIBOR at these other firms to occur undetected over a number of years.
- (3) In response to the above, JPMorgan undertook a review to assess whether issues could arise for JPMorgan in relation to similar benchmarks and indices (not including the 1:15pm ECB or 4pm WM Reuters fixes), including an inventory project to identify LIBOR-like submissions and to consider whether JPMorgan should continue to contribute to, or participate in, those submissions and, if so, to review and enhance relevant policies and procedures where necessary. JPMorgan implemented enhanced policies and new training and guidance for submitters and traders in order to better ensure independence and reliability in the benchmark setting process.
- (4) Despite these improvements, JPMorgan failed to address fully in its G10 spot FX trading business the root causes that gave rise to failings described in this Notice. For example, the risks around conflicts of interest in that business were not addressed by JPMorgan. As a result, JPMorgan did not appropriately mitigate the risks of potential trader misconduct in its G10 spot FX trading business.

- (5) Risks around confidentiality in JPMorgan's G10 spot FX trading business were highlighted in March 2012, when JPMorgan Compliance was asked for guidance about information sharing with other banks in chat rooms ahead of fixes. While Compliance replied with appropriate advice by email, there is no record of wider dissemination of the guidance or of steps to ensure this was reflected in JPMorgan's policies or controls.
- (6) In addition, in April 2012 Compliance requested that the front office provide it with a list of "do's and don'ts" for trading at a fix, in order to assist with creating guidance in that regard. No such guidance was produced. However, general firm-wide anti-trust training was provided to London G10 spot FX traders in September 2012, as noted in paragraph 4.26 above.

Inappropriate trading behaviour and misuse of confidential information

4.31. JPMorgan's failure to identify, assess and manage appropriately the risks in its G10 spot FX trading business allowed the following behaviours to occur in that business:

- (1) Attempts to manipulate the WMR and the ECB fix rates, alone or in collusion with traders at other firms, for JPMorgan's own benefit and to the potential detriment of certain of its clients and/or other market participants;
- (2) Attempts to trigger clients' stop loss orders for JPMorgan's own benefit and to the potential detriment of those clients and/or other market participants; and
- (3) Inappropriate sharing of confidential information with traders at other firms, including specific client identities and, as part of (1) and (2) above, information about clients' orders.

4.32. These behaviours were typically facilitated by means of G10 spot FX traders at different firms communicating via electronic messaging services (including chat rooms). These traders formed close, tight-knit groups or one-to-one relationships based upon mutual benefit and often with a focus on particular currency pairs. Entry into some of these groups or relationships and the chat rooms used by them was closely controlled by the participants. Certain groups described

themselves or were described by others using phrases such as "A-team" or similar.

- 4.33. The value of the information exchanged between the traders and the importance of keeping it confidential between recipients was clear to participants. In one group, a JPMorgan trader questioned whether a prospective new participant would *"tell [the] rest of [his] desk stuff"*. A trader at another firm commented *"dont want other numpty's in mkt to know [about information exchanged within the group], but not only that is he gonna protect us like we protect each other..."*.

Attempts to manipulate the fix

- 4.34. During its investigation, the Authority identified examples within JPMorgan's G10 spot FX trading business of attempts to manipulate fix rates alone or in collusion with traders at other firms in the manner described in this Notice.
- 4.35. The traders involved disclosed and received confidential information to and from traders at other firms regarding the size and direction of their firms' net orders at a forthcoming fix. The disclosures provided these traders with more information than they would otherwise have had about other firms' client order flows and thus the likely direction of the fix.
- 4.36. These traders used this information to determine their trading strategies and depending on the circumstances to attempt to manipulate the fix in the desired direction. They did this by undertaking a number of actions, typically including one or more of the following (which would depend on the information disclosed and the traders involved):
- (1) Traders in a chat room with net orders in the opposite direction to the desired movement at the fix sought before the fix to transact or *"net off"* their orders with third parties outside the chat room, rather than with other traders in the chat room. This maintained the volume of orders in the desired direction held by traders in the chat room and avoided orders being transacted in the opposite direction at the fix. Traders within the market have referred to this process as *"leaving you with the ammo"* or similar.

- (2) Traders in a chat room with net orders in the same direction as the desired rate movement at the fix sought before the fix to do one or more of the following:
- (a) Net off these orders with third parties outside the chat room, thereby reducing the volume of orders held by third parties that might otherwise be transacted at the fix in the opposite direction. Traders within the market have referred to this process as *"taking out the filth"* or *"clearing the decks"* or similar;
 - (b) Transfer these orders to a single trader in the chat room, thereby consolidating these orders in the hands of one trader. This potentially increased the likelihood of successfully manipulating the fix rate since that trader could exercise greater control over his trading strategy during the fix than a number of traders acting separately. Traders within the market have referred to this as *"giving you the ammo"* or similar; and/or
 - (c) Transact with third parties outside the chat room in order to increase the volume of orders held by them in the desired direction. This potentially increased the influence of the trader(s) at the fix by allowing them to control a larger proportion of the overall volume traded at the fix than they would otherwise have and/or to adopt particular trading strategies, such as trading a large volume of a currency pair aggressively. This process was known as *"building"*.
- (3) Traders increased the volume traded by them at the fix in the desired direction in excess of the volume necessary to manage the risk associated with firms' net buy or sell orders at the fix. Traders within the market have referred to this process as *"overbuying"* or *"overselling"*.

4.37. The effect of these actions was to increase the influence that those traders had with regard to the forthcoming fix and therefore the likelihood of them being able to manipulate the rate in the desired direction. The trader(s) concerned then traded in an attempt to move the fix rate in the desired direction.

Example of JPMorgan's attempts to manipulate the fix

- 4.38. An example of JPMorgan's involvement in this behaviour occurred on one day within the Relevant Period when JPMorgan attempted to manipulate the WMR fix in the EUR/USD currency pair. On this day, JPMorgan had net buy orders at the fix which meant that it would benefit if it was able to move the WMR fix rate upwards.¹⁰ The chances of successfully manipulating the fix rate in this manner would be improved if JPMorgan and another firm or firms adopted trading strategies based upon the information they shared with each other about their net orders.
- 4.39. In the period between 3:41pm and 3:51pm on this day, traders at two different firms (including JPMorgan) inappropriately disclosed to each other via a chat room details about their net orders in respect of the forthcoming WMR fix in order to determine their trading strategies. The other firm is referred to in this Warning Notice as Firm A. On the day in question, a third firm (Firm B) was a member of the chat room, but did not participate in the discussions. JPMorgan then participated in the series of actions described below in an attempt to manipulate the fix rate higher.
- (1) At 3:43pm, Firm A asked JPMorgan whether it would need to buy EUR in the market for the forthcoming WMR fix. JPMorgan responded that it had net buy orders for the fix, which it subsequently confirmed amounted to EUR105 million. It offered to transfer its net buy orders to Firm A.
 - (2) At 3:44pm, Firm A replied "*maybe*" and went on to state that it had a buy order "*for a top [account]*" for EUR150 million at the fix.
 - (3) At 3:46pm, Firm A then stated "*i'd prefer we join forces*". JPMorgan responded "*perfick...lets do ths...lets double team em*". Firm A replied "*YESssssssssss*". The Authority considers these statements to refer to the possibility of JPMorgan and Firm A co-ordinating their actions in an attempt to manipulate the fix rate higher. Since JPMorgan and Firm A each needed to buy EUR at the fix, each would profit to the extent that the

¹⁰ JPM would profit if the average rate at which it bought EUR/USD in the market was lower than the fix rate at which it sold EUR/USD.

fix rate at which it sold EUR was higher than the average rate at which it bought EUR in the market.

- (4) At 3:47pm and 3:51pm, JPMorgan informed Firm A that it had conducted trades with third parties that resulted in it needing to buy additional EUR at the fix. This is an example of *"building"*.
- (5) At 3:48pm, Firm A said that it was monitoring activity in relation to the forthcoming fix in the interdealer broker market (*"i got the bookies covered"*).

- 4.40. In the period leading up to the fix, JPMorgan *"built"* the volume of EUR that it needed to buy for the fix to a total of approximately EUR278 million via a series of transactions with market participants. Firm A had net buy orders associated with its client fix orders of EUR170 million in the period leading up to the fix. It increased this amount (or *"built"*) by EUR70 million.
- 4.41. From 3:52pm until the opening of the fix window at 3:59:30pm, JPMorgan and Firm A bought EUR on the EBS trading platform. In particular JPMorgan bought EUR57 million from 3:58pm onwards. These early trades were designed to take advantage of the expected upward movement in the fix rate following the discussions within the chat room described above.
- 4.42. In the first five seconds of the fix window, JPMorgan and Firm A each placed orders to buy EUR50 million and subsequently placed smaller orders to buy EUR throughout the remainder of the fix window. During the 60 second fix window, JPMorgan bought a total of EUR134 million and Firm A bought EUR125 million. Between them, they accounted for 41% of the volume of EUR/USD bought during the fix window.
- 4.43. The rate prevailing on EBS at the start of the fix window was 1.3957. Over the course of the window period, the rate rose and WM Reuters subsequently published the fix rate for EUR/USD at 1.39605.
- 4.44. The information disclosed between JPMorgan and Firm A regarding their order flows was used to determine their trading strategies. The consequent *"building"* by JPMorgan and its trading in relation to that increased quantity in advance of and during the fix window were designed to increase the WMR fix rate to JPMorgan's benefit.

JPMorgan's trading in EUR/USD in this example generated a profit of approximately USD33,000.

- 4.45. Subsequent to the WMR fix, the two traders discussed the outcome of their trading. At 4:03pm, Firm A stated "*sml rumour we havent lost it*". JPMorgan responded "*we...do...dollarrr*".
- 4.46. The following day Firm A stated to Firm B "*we were EPIC at the [WMR] fix yest*". Firm B responded "*yyyyyyyyyyyyyyyyeah*". Firm A added "*i dragged [JPMorgan] in , we covered all the bases b/w us*". Firm B commented "*so couldnt have been that \$hit a week!!*"

Attempts to trigger client stop loss orders

- 4.47. During its investigation, the Authority identified instances within JPMorgan's G10 spot FX trading business of attempts to trigger client stop loss orders. These attempts involved inappropriate disclosures to traders at other firms concerning details of the size, direction and level of client stop loss orders. The traders involved would trade in a manner aimed at manipulating the spot FX rate, such that the stop loss order was triggered. JPMorgan would potentially profit from this activity because if successful it would, for example, have sold the particular currency to its client pursuant to the stop loss order at a higher rate than it had bought that currency in the market.
- 4.48. This behaviour was reflected in language used by G10 spot FX traders at JPMorgan in chat rooms. For example, a JPMorgan trader explained to other traders in a chat room that he had traded in the market in order "*to get the 69 print*" (i.e. to move the spot FX rate for that currency pair to the level ("69") at which a stop loss would be triggered). On another occasion, the same trader disclosed the level of certain clients' stop loss orders to other JPMorgan traders in a chat room and asked "*shall we go get these stops?*".

Inappropriate sharing of confidential information

- 4.49. The attempts to manipulate the WMR and ECB fixes and trigger client stop loss orders described in this Notice involved inappropriate disclosures of client order flows at fixes and details of client stop loss orders.
- 4.50. There are also examples in JPMorgan's G10 spot FX trading business of disclosures of specific client identities to traders at other firms

during the Relevant Period. These examples involved traders within that business using informal and sometimes derogatory code words to communicate details of clients' activities without mentioning the clients by name. Disclosing these details gave traders at other firms notice of the activity of JPMorgan's clients. This gave those traders more information about those clients' activities than they would otherwise have had. The clients identified were typically significant market participants, such as central banks, large corporates, pension funds or hedge funds, whose trading activity was potentially influential in the market. When these disclosures were made while the client's activity was ongoing, there was significant potential for client detriment.

5. FAILINGS

- 5.1. The regulatory provisions relevant to this Warning Notice are referred to in Annex A.
- 5.2. For the reasons set out at paragraphs 4.18 to 4.50 in this Notice, JPMorgan breached Principle 3 by failing to take reasonable care to organise and control its affairs properly and effectively in relation to its G10 spot FX trading business.

6. SANCTION

- 6.1. The Authority's policy for imposing a financial penalty is set out in Chapter 6 of the Authority's Decision Procedure and Penalties Manual ("DEPP"). In determining the financial penalty, the Authority has had regard to this guidance.
- 6.2. Changes to DEPP were introduced on 6 March 2010. Given that JPMorgan's breach occurred both before and after that date, the Authority has had regard to the provisions of DEPP in force before and after that date.
- 6.3. The application of the Authority's penalty policy is set out in Annex D to this Notice in relation to:
 - (1) JPMorgan's breach of Principle 3 prior to 6 March 2010; and
 - (2) JPMorgan's breach of Principle 3 on or after 6 March 2010.
- 6.4. In determining the financial penalty to be attributed to JPMorgan's breach prior to and on or after 6 March 2010, the Authority has had

particular regard to the following matters as applicable during each period:

- (1) The need for credible deterrence;
- (2) The nature, seriousness and impact of the breach;
- (3) The failure of JPMorgan to respond adequately during the Relevant Period in its G10 spot FX trading business to misconduct identified in well-publicised enforcement actions against other firms relating to LIBOR / EURIBOR;
- (4) The previous disciplinary record and general compliance history of JPMorgan; and
- (5) Any applicable settlement discount for agreeing to settle at an early stage of the Authority's investigation.

6.5. The Authority therefore proposes to impose a total financial penalty of £222,166,000 on JPMorgan comprising:

- (1) A penalty of £40,950,000 relating to JPMorgan's breach of Principle 3 under the old penalty regime; and
- (2) A penalty of £181,216,000 relating to JPMorgan's breach of Principle 3 under the current penalty regime.

7. PROCEDURAL MATTERS

Decision maker

- 7.1. The decision which gave rise to the obligation to give this Notice was made by the Settlement Decision Makers.
- 7.2. This Warning Notice is given under section 207 and in accordance with section 387 of the Act. The following statutory rights are important.

Representations

- 7.3. The person to whom this Warning Notice is given has the right to make representations to the Authority. Any representations must be made within 14 days of receiving this Warning Notice (or such longer period as may be permitted by the Authority), and sent to:

Karen Oliver

Financial Conduct Authority,

25 The North Colonnade,

Canary Wharf,
London,
E14 5HS

The Tribunal

- 7.4. If, having considered representations or in the absence of any such representations, the Authority decides to take any action, the Authority will issue a Decision Notice at which stage the person to whom the Decision Notice is given will have the right to refer the matter to the Tribunal.
- 7.5. Once any such referral is determined by the Tribunal and subject to that determination, or if the matter has not been referred to the Tribunal, the Authority will issue a Final Notice about the implementation of that decision.

Access to evidence

- 7.6. Section 394 of the Act applies to this Warning Notice.
- 7.7. The person to whom this Notice is given has the right to access:
- (1) The material upon which the Authority has relied in deciding to give this Notice; and
 - (2) Any secondary material which, in the opinion of the Authority, might undermine that decision.

Third party rights

- 7.8. No third party rights apply in respect of this Notice.

Confidentiality and publicity

- 7.9. This Warning Notice may contain confidential information and should not be disclosed to a third party (except for the purpose of obtaining advice on its contents). Section 391(1) of the Act applies to Warning Notices that fall within section 391(1ZB) of the Act. This Warning Notice falls within section 391(1ZB) of the Act. Section 391(1)(a) of the Act provides that neither the Authority nor a person to whom a Warning Notice is given or copied may publish the notice. Section 391(1)(b) of the Act provides that a person to whom a Warning Notice is given or copied may not publish any details concerning the Notice unless the Authority has published those details. Section

391(1)(c) of the Act provides that the Authority may, after consulting the persons to whom a Warning Notice is given or copied, publish such information about the matter to which a Warning Notice relates as it considers appropriate.

- 7.10. The Authority must publish such information about the matter to which a Decision Notice or Final Notice relates as it considers appropriate. A Decision Notice or Final Notice may contain reference to the facts and matters contained in this Notice.

Authority contacts

- 7.11. For more information concerning this matter generally, contact Karen Oliver at the Authority (direct line: 020 7066 1316 / fax: 020 7066 1317).



Tracey McDermott

Settlement Decision Maker,
for and on behalf of the Authority



Clive Adamson

Settlement Decision Maker,
for and on behalf of the Authority

ANNEX A

RELEVANT STATUTORY AND REGULATORY PROVISIONS

1. RELEVANT STATUTORY PROVISIONS

- 1.1. The Authority's statutory objectives, set out in section 1B(3) of the Act, include the integrity objective.

- 1.2. Section 206(1) of the Act provides:

"If the Authority considers that an authorised person has contravened a requirement imposed on him by or under this Act... it may impose on him a penalty, in respect of the contravention, of such amount as it considers appropriate."

2. RELEVANT REGULATORY PROVISIONS

Principles for Businesses

- 2.1. The Principles are a general statement of the fundamental obligations of firms under the regulatory system and are set out in the Authority's Handbook. They derive their authority from the Authority's rule-making powers set out in the Act. The relevant Principle and associated Rules are as follows:

- (1) Principle 3 provides that a firm must take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems; and
- (2) PRIN3.2.3R provides that, amongst other things, Principle 3 will apply with respect to the carrying on of unregulated activities in a prudential context. PRIN3.3.1R provides that this applies with respect to activities wherever they are carried on.

DEPP

- 2.2. Chapter 6 of DEPP, which forms part of the Authority's Handbook, sets out the Authority's statement of policy with respect to the imposition and amount of financial penalties under the Act.

The Enforcement Guide

- 2.3. The Enforcement Guide sets out the Authority's approach to exercising its main enforcement powers under the Act.

- 2.4. Chapter 7 of the Enforcement Guide sets out the Authority's approach to exercising its power to impose a financial penalty.

ANNEX B

BACKGROUND INFORMATION TO THE SPOT FX MARKET

1. SPOT FX TRANSACTIONS

- 1.1. A "spot FX" transaction is an agreement between two parties to buy or sell one currency against another currency at an agreed price for settlement on a "spot date" (usually two business days from the trade date).
- 1.2. Spot FX transactions can be direct (executed between two parties directly), via electronic broking platforms which operate automated order matching systems or other electronic trading systems, or through a voice broker. In practice much of the trading between firms in the spot FX market takes place on electronic broking platforms such as Reuters and EBS.

2. THE 4PM WM REUTERS FIX AND THE 1:15PM ECB FIX

- 2.1. WM Reuters publishes a series of rates for various currency pairs at different times in the day, including at 4pm UK time in particular. This rate (the "4pm WM Reuters fix") has become a de facto standard for the closing spot rate in those currency pairs. For certain currency pairs, the 4pm WM Reuters fix is calculated by reference to trading activity on a particular electronic broking platform during a one minute window (or "fix period") 30 seconds before and 30 seconds after 4pm.¹¹ The 4pm WM Reuters fix rates are then published to the market shortly thereafter.
- 2.2. The ECB establishes reference rates for various other currency pairs. The rate is "*based on the regular daily concertation procedure between central banks within and outside the European System of Central Banks*".¹² This procedure normally takes place at 1:15pm UK time and the reference rates are published shortly thereafter. This process is known in FX markets as the ECB fix. The ECB fix is known colloquially as a "flash" fix, that is to say it reflects the rate at that particular moment in time.

¹¹ The methodology used by WM Reuters to calculate its rates is set out in the attached link:
<http://www.wmcompany.com/fdlis/WMLReutersMethodology.pdf>

¹² The methodology used by ECB to establish its rates is described in the attached link:
<http://www.ecb.europa.eu/press/pr/node-2018270>

- 2.3. Rates established at these fixes are used across the UK and global financial markets by various market participants, including banks, asset managers, pension funds and corporations. These rates are a key reference point for valuing different currencies. They are used in the valuation of foreign currency denominated assets and liabilities, the valuation and performance of investment portfolios, the compilation of equity and bond indices and in contracts of different kinds, including the settlement of financial derivatives.

3. FIX ORDERS

- 3.1. A firm may receive and accept multiple client orders to buy or sell a particular currency pair for a particular fix on any given day. The firm agrees to transact with the client at the forthcoming fix rate. In practice, opposing client orders are effectively "netted" out by the firm insofar as possible¹³ and traders at the firm will be responsible for managing any residual risk associated with the client orders. They may seek to manage this risk by going into the market and buying or selling an equivalent amount of the relevant currency to match the residual risk.
- 3.2. At its most straightforward, for example, on any given day a firm might receive client orders to buy EUR/USD¹⁴ 500 million at the fix rate and client orders to sell EUR/USD 300 million at the fix rate. In this example, the firm would agree to transact all these orders at the fix rate and would net out the opposing orders for EUR/USD 300 million. The traders at the firm may buy EUR/USD 200 million in the market to manage the residual risk associated with the client orders. This net amount is referred to in this Notice as the firm's "net client orders" at the fix.
- 3.3. A firm does not charge commission on its trading or act as an agent, but transacts with the client as a principal. A firm in this situation is exposed to rate movements at the fix. A firm can make a profit or loss from clients' fix orders in the following ways:

¹³ This can be done by "netting off" opposing orders in the same currency pairs or by splitting the order between its constituent currencies and "netting off" against orders relating to other currency pairs.

¹⁴ The first currency of a currency pair (e.g. EUR in the above example) is called the "base" currency. The second currency is called the "quote" currency (e.g. USD in the above example). An order to buy a currency pair is an order to buy the base currency (e.g. EUR) using the quote currency (e.g. USD) as consideration for the transaction. An order to sell a currency pair is an order to sell the base currency and to receive the quote currency.

- (1) A firm with net client orders to buy a currency for a forthcoming fix will make a profit if the fix rate (i.e. the rate at which it has agreed to sell a quantity of the currency pair to its client) is higher than the average rate at which the firm buys the same quantity of that currency pair in the market. Conversely, the firm will make a loss if the fix rate is lower than the average rate at which the firm buys the same quantity of that currency pair in the market.
 - (2) A firm with net client orders to sell a currency for a forthcoming fix will make a profit if the fix rate (i.e. the rate at which it has agreed to buy a quantity of the currency pair from its client) is lower than the average rate at which the firm sells the same quantity of that currency pair in the market. A loss will be made by the firm if the fix rate is higher than the average rate at which the firm sells the same quantity of that currency in the market.
- 3.4. A firm legitimately managing the risk arising from its net client orders at the fix rate may make a profit or a loss from its associated trading in the market. Such trading can potentially influence the fix rate. For example, a firm buying a large volume of currency in the market just before or during the fix may cause the fix rate to move higher. This gives rise to a potential conflict of interest between a firm and its clients.
- 3.5. It also creates a potential incentive for a firm to seek to attempt to manipulate the fix rate in the direction that will result in a profit for the firm. For example, a firm with net client buy orders for the forthcoming fix can make a profit if it trades in a way that moves the fix rate higher such that the rate at which it has agreed to sell a quantity of the currency pair to its client is higher than the average rate at which it buys that quantity of the currency pair in the market. Similarly, a firm can profit from net client sell orders if it moves the fix rate lower such that the rate at which it has agreed to buy a quantity of the currency pair from its client is lower than the average rate at which it sells that quantity of the currency pair in the market.

4. STOP LOSS ORDERS

- 4.1. Clients will place stop loss orders with a firm to help manage their risk arising from movements in the spot FX market. For example, in circumstances where a client has bought EUR/USD he may place a stop loss order with a firm to sell EUR/USD at or around a specified rate below that of his original purchase. By accepting the order, the firm agrees to transact with the client at or around a specified rate if the currency trades at that rate in the market. No binding agreement is made until the agreed rate is "*triggered*" (i.e. when the currency trades at that rate in the market).
- 4.2. A stop loss order has the effect of managing the client's risk and limiting the crystallised loss associated with a currency position taken by him should the market rate move against him. The size of the stop loss order and the rate at which it is placed will depend on the risk appetite of the client. Spot FX traders at the firm will typically be responsible for managing the order for the client and managing the risk associated with the order from the firm's perspective.
- 4.3. A firm can potentially make a profit or loss from transacting a client's stop loss order in a similar way to that described at paragraph 3.2 above:
 - (1) A client's stop loss order to buy a currency pair is triggered by the rate moving above a certain specified level. A firm will make a profit (loss) if it purchases a quantity of the currency pair in the market at a lower (higher) average rate than that at which it subsequently sells that quantity of the currency pair to its client when the stop loss order is executed.
 - (2) A client's stop loss order to sell a currency is triggered by the rate moving below a certain specified level. A firm will make a profit (loss) if it sells a quantity of the currency pair in the market at a higher (lower) average rate than that at which it subsequently buys that quantity of the currency pair from its client when the stop loss order is executed.
- 4.4. Similar to fix orders, a firm legitimately managing the risk arising from a client's stop loss order may make a profit or loss from the trading associated with its risk management. Such a scenario can also, however, provide a potential incentive for a firm to attempt to

manipulate the rate for a currency pair prevailing in the market to, or through, a level where the stop loss order is triggered. For example, a firm will profit from a client's stop loss order to buy a currency pair if the firm purchases a quantity of that currency pair and then trades in a manner that moves the prevailing rate for a currency pair at or above the level of the stop loss. This would result in the rate at which the firm sells the currency pair to the client as a result of the execution of the stop loss being higher than the average rate at which it has purchased that quantity of the currency pair in the market.

5. ELECTRONIC MESSAGING VIA CHAT ROOMS OR SIMILAR

- 5.1. The use of electronic messaging was common practice by traders in the spot FX market during the Relevant Period.
- 5.2. A "persistent" chat room allows participants to have ongoing discussions with other participants from different firms and in different time zones for extended timeframes. Participants can communicate via electronic messaging over a period of multiple days, weeks or months. There can be multiple participants in a particular persistent chat and once invited an individual will be able to view a continuous record of the entire discussion thread and participate from then on.

ANNEX C

RELEVANT CODES OF CONDUCT

1. On 22 February 2001, a number of leading intermediaries, including JPMorgan, issued a statement setting out a new set of "good practice guidelines" in relation to foreign exchange trading (the "2001 statement"). The guidelines specified that:

*"The handling of customer orders requires standards that strive for best execution for the customer in accordance with such orders subject to market conditions. In particular, caution should be taken so that customers' interests are not exploited when financial intermediaries trade for their own accounts... Manipulative practices by banks with each other or with clients constitute unacceptable trading behaviour."*¹⁵

The 2001 statement continues, "Foreign exchange trading management should prohibit the deliberate exploitation of electronic dealing systems to generate artificial price behaviour."¹⁶

2. The NIPS Code provided the following relevant guidance:
 - 2.1. In relation to conflicts of interest, "All firms should identify any potential or actual conflicts of interest that might arise when undertaking wholesale market transactions, and take measures either to eliminate these conflicts or control them so as to ensure the fair treatment of counterparties."¹⁷
 - 2.2. In relation to maintaining the confidentiality of information it states that "Confidentiality is essential for the preservation of a reputable and efficient market place. Principals and brokers share equal responsibility for maintaining confidentiality".¹⁸
 - 2.3. It continues "Principals or brokers should not, without explicit permission, disclose or discuss or apply pressure on others to

¹⁵ Annex 2 to the NIPS Code, November 2011. Original statement issued 22 February 2001 by 16 leading intermediaries in the FX market. Also Annex 2 to the NIPS Code December 2007 and NIPS Code April 2009.

¹⁶ Ibid.

¹⁷ Paragraph 5, Part II, NIPS Code, December 2007; and Paragraph 6, Chapter II, NIPS Code, April 2009 and November 2011.

¹⁸ Paragraph 16, Part III, NIPS Code, December 2007; and paragraph 15, Chapter III, NIPS Code, April 2009 and November 2011.

*disclose or discuss, any information relating to specific deals which have been transacted, or are in the process of being arranged, except to or with the parties directly involved (and, if necessary, their advisors) or where this is required by law or to comply with the requirements of a supervisory body. All relevant personnel should be made aware of, and observe, this fundamental principle.*¹⁹

3. The ACI Model Code provides the following relevant guidance:

- 3.1. In relation to confidentiality it provides that firms must have clearly documented policies and procedures in place and strong systems and controls to manage confidential information within the dealing environment and other areas of the firm which may obtain such information. It also stipulates that any breaches in relation to confidentiality should be investigated immediately according to a properly documented procedure.²⁰
- 3.2. In relation to confidential information it provides that *"Dealers and sales staff should not, with intent or through negligence, profit or seek to profit from confidential information, nor assist anyone with such information to make a profit for their firm or clients"*. It goes on to clarify that dealers should refrain from trading against confidential information and never reveal such information outside their firms and that employees have a duty to familiarise themselves with the requirements of the relevant legislation and regulations governing insider dealing and market abuse in their jurisdiction.²¹

¹⁹ Paragraph 16, Part III, NIPS Code, December 2007; and paragraph 15, Chapter III, NIPS Code, April 2009 and November 2011.

²⁰ Paragraphs 9 and 6, Chapter II, ACI Model Code, April 2009; paragraph 10, ACI Model Code, September 2012; paragraph 10.1 ACI Model Code, January 2013.

²¹ Paragraph 9, Chapter II, ACI Model Code, April 2009; paragraph 10(b), ACI Model Code, September 2012; and paragraph 10.2, ACI Model Code, January 2013.

ANNEX D
PENALTY ANALYSIS

1. The Authority's policy for imposing a financial penalty is set out in Chapter 6 of the Authority's Decision Procedure and Penalties Manual ("DEPP"). In determining the financial penalty, the Authority has had regard to this guidance.
2. Changes to DEPP were introduced on 6 March 2010. Given that JPMorgan's breach occurred both before and after that date, the Authority has had regard to the provisions of DEPP in force before and after that date.
3. The application of the Authority's penalty policy is set out below in relation to:
 - 3.1. JPMorgan's breach of Principle 3 prior to 6 March 2010; and
 - 3.2. JPMorgan's breach of Principle 3 on or after 6 March 2010.

4. BREACH OF PRINCIPLE 3 PRIOR TO 6 MARCH 2010

- 4.1. In determining the financial penalty to be attributed to JPMorgan's breach prior to 6 March 2010, the Authority has had particular regard to the following:

Deterrence – DEPP 6.5.2G(1)

- 4.2. The principal purpose of a financial penalty is to promote high standards of regulatory conduct by deterring firms who have breached regulatory requirements from committing further contraventions, helping to deter other firms from committing contraventions and demonstrating generally to firms the benefits of compliant behaviour. The Authority considers that the need for deterrence means that a very significant financial penalty against JPMorgan is appropriate.

The nature, seriousness and impact of the breach – DEPP 6.5.2G(2)

- 4.3. JPMorgan's breach was extremely serious. The failings in JPMorgan's procedures, systems and controls in its G10 spot FX trading business occurred over a period of more than two years prior to 6 March 2010. This gave rise to a risk that JPMorgan's traders would engage in the

behaviours described in this Notice, including inappropriate disclosures of confidential information and attempts to manipulate the 4pm WM Reuters fix and the 1:15pm ECB fix and to trigger client stop loss orders. JPMorgan's breach undermines confidence not only in the spot FX market, but also in the wider UK financial system.

The size and financial resources of the Firm – DEPP 6.5.2G(5)

- 4.4. JPMorgan is one of the biggest, most sophisticated and well-resourced financial services institutions in the UK. Serious breaches committed by such a firm warrant a significant penalty.

Other action taken by the Authority – DEPP 6.5.2G(10)

- 4.5. In determining whether and what financial penalty to impose on JPMorgan in respect of its breach of Principle 3, the Authority has taken into account action taken by the Authority in relation to comparable breaches.
- 4.6. The Authority considers that JPMorgan's breach of Principle 3 in the period prior to 6 March 2010 merits a significant financial penalty of £58,500,000 before settlement discount.
- 4.7. JPMorgan agreed to settle at an early stage of the Authority's investigation. JPMorgan therefore qualified for a 30% (Stage 1) discount under the Authority's executive settlement procedures. The financial penalty for JPMorgan's breach of Principle 3 in the period prior to 6 March 2010 is therefore £40,950,000.

5. BREACH OF PRINCIPLE 3 ON OR AFTER 6 MARCH 2010

- 5.1. In respect of any breach occurring on or after 6 March 2010, the Authority applies a five-step framework to determine the appropriate level of financial penalty. DEPP 6.5A sets out the details of the five-step framework that applies in respect of financial penalties imposed on firms.

Step 1: Disgorgement

- 5.2. At Step 1 the Authority seeks to deprive a firm of the financial benefit derived directly from the breach where it is practicable to quantify this (DEPP 6.5A.1G). The Authority considers that it is not practicable to quantify the financial benefit that JPMorgan may have derived directly from its breach.

5.3. Step 1 is therefore £0.

Step 2: The seriousness of the breach

5.4. At Step 2 the Authority determines a figure that reflects the seriousness of the breach (DEPP 6.5A.2G). Where the amount of revenue generated by a firm from a particular product line or business area is indicative of the harm or potential harm that its breach may cause, that figure will be based on a percentage of the firm's revenue from the relevant products or business area.

5.5. The Authority considers revenue to be an indicator of the harm or potential harm caused by the breach. The Authority has therefore determined a figure based on a percentage of JPMorgan's relevant revenue. The Authority considers that the relevant revenue for the period from 6 March 2010 to 15 October 2013 is £121,000,000.

5.6. In deciding on the percentage of the relevant revenue that forms the basis of the Step 2 figure, the Authority considers the seriousness of the breach and chooses a percentage between 0% and 20%. This range is divided into five fixed levels which represent, on a sliding scale, the seriousness of the breach; the more serious the breach, the higher the level. For penalties imposed on firms there are the following five levels:

Level 1 – 0%

Level 2 – 5%

Level 3 – 10%

Level 4 – 15%

Level 5 – 20%

5.7. In assessing the seriousness level, the Authority takes into account various factors which reflect the impact and nature of the breach, and whether it was committed deliberately or recklessly. The Authority considers that the following factors are relevant:

Impact of the breach

(1) The breach potentially had a very serious and adverse effect on markets, having regard to whether the orderliness of or confidence in the markets in question had been damaged or put at risk. This is due to the fundamental importance of spot

FX benchmarks and intra-day rates for G10 currencies, their widespread use by market participants and the consequent negative impact on confidence in the spot FX market and the wider UK financial system arising from misconduct in relation to them;

Nature of the breach

- (2) There were serious and systemic weaknesses in JPMorgan's procedures, systems and controls in its G10 spot FX trading business over a number of years;
- (3) JPMorgan failed adequately to address obvious risks in that business in relation to conflicts of interest, confidentiality and trading conduct. These risks were clearly identified in industry codes published before and during the Relevant Period;
- (4) JPMorgan's failings allowed improper trader behaviours to occur in its G10 spot FX trading business as described in this Notice. These behaviours were egregious and at times collusive in nature;
- (5) There was a potential detriment to clients and to other market participants arising from misconduct in the G10 spot FX market;
- (6) Certain of those responsible for managing front office matters at JPMorgan were aware of and/or at times involved in behaviours described in this Notice in the period on or after 6 March 2010; and

Whether the breach was deliberate or reckless

- (7) The Authority has not found that JPMorgan acted deliberately or recklessly in the context of the Principle 3 breach.
- 5.8. Taking all of these factors into account, the Authority considers the seriousness of JPMorgan's Principle 3 breach on or after 6 March 2010 to be level 5 and so the Step 2 figure is 20% of £121,000,000.
- 5.9. Step 2 is therefore £24,200,000.

Step 3: Mitigating and aggravating factors

- 5.10. At Step 3 the Authority may increase or decrease the amount of the financial penalty arrived at after Step 2 to take into account factors which aggravate or mitigate the breach (DEPP 6.5A.3G).
- 5.11. The Authority considers that the following factors aggravate the breach:
- (1) The firm's previous disciplinary record and general compliance history, including:
 - (a) On 18 September 2013, JPMorgan was fined over £137 million for breaches of Principles 2, 3, 5 and 11 in connection with USD6.2 billion trading losses caused by a high risk trading strategy;
 - (b) On 10 May 2013, J.P. Morgan International Bank Limited was fined just over £3 million for breaches of Principle 3 and SYSC 9.1.1R relating to its failure to take reasonable care to organise and control its affairs in relation to its provision of retail investment advice and portfolio investment services; and
 - (c) On 25 May 2010, J.P. Morgan Securities Limited was fined £33.3 million for breaches of Principle 10 and Client Money Rules in relation to failings concerning the protection and segregation of client money.
 - (2) JPMorgan's failure to respond adequately during the Relevant Period in its G10 spot FX trading business to misconduct identified in well-publicised enforcement actions against other firms relating to LIBOR / EURIBOR; and
 - (3) Despite the fact that certain of those responsible for managing front office matters were aware of and/or at times involved in behaviours described in this Notice, they did not take steps to stop those behaviours.
- 5.12. Having taken into account these aggravating factors, the Authority considers that the Step 2 figure should be increased by 40%.
- 5.13. Step 3 is therefore £33,880,000.

Step 4: Adjustment for deterrence

- 5.14. If the Authority considers the figure arrived at after Step 3 is insufficient to deter the firm who committed the breach, or others, from committing further or similar breaches, then the Authority may increase the penalty.
- 5.15. The Authority does not consider that the Step 3 figure of £33,880,000 represents a sufficient deterrent in the circumstances of this case.
- 5.16. One of the Authority's stated objectives when introducing the penalty policy on 6 March 2010 was to increase the level of penalties to ensure credible deterrence. The Authority considers that penalties imposed under this policy should be materially higher than penalties for similar breaches imposed pursuant to the policy applicable before that date.
- 5.17. The failings described in this Notice allowed JPMorgan's G10 spot FX trading business to act in JPMorgan's own interests without proper regard for the interests of its clients, other market participants or the financial markets as a whole. JPMorgan's failure to control properly the activities of that business in a systemically important market such as the G10 spot FX market undermines confidence in the UK financial system and puts its integrity at risk. The Authority regards these as matters of the utmost importance when considering the need for credible deterrence.
- 5.18. JPMorgan's response to misconduct identified in well-publicised enforcement actions against other firms relating to LIBOR / EURIBOR failed adequately to address in its G10 spot FX business the root causes that gave rise to failings described in this Notice. This indicates that industry standards have not sufficiently improved in relation to identifying, assessing and managing appropriately the risks that firms pose to markets in which they operate. The largest penalty imposed to date in relation to similar failings in the context of LIBOR / EURIBOR was a penalty against a firm of £200,000,000 (before settlement discount) under the Authority's penalty policy prior to 6 March 2010. The Authority considers that the penalty imposed for the failings in this Notice should as a minimum significantly exceed that level for credible deterrence purposes.

5.19. The Authority considers that in order to achieve credible deterrence, the Step 3 figure should be increased by the sum of £225,000,000.

5.20. Step 4 is therefore £258,880,000.

Step 5: Settlement discount

5.21. If the Authority and JPMorgan, on whom a penalty is to be imposed, agree the amount of the financial penalty and other terms, DEPP 6.7 provides that the amount of the financial penalty which might otherwise have been payable will be reduced to reflect the stage at which the Authority and JPMorgan reached agreement. The settlement discount does not apply to the disgorgement of any benefit calculated at Step 1.

5.22. The Authority and JPMorgan reached agreement at Stage 1 and so a 30% discount applies to the Step 4 figure.

5.23. Step 5 is therefore £181,216,000.

6. CONCLUSION

6.1. The Authority therefore proposes to impose a total financial penalty of £222,166,000 on JPMorgan comprising:

- (1) A penalty of £40,950,000 relating to JPMorgan's breach of Principle 3 under the old penalty regime; and
- (2) A penalty of £181,216,000 relating to JPMorgan's breach of Principle 3 under the current penalty regime.